IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.125 OF 2007

Nana Balu Kudale ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Shri Shirish Gupte, Sr.Counsel with Prakash Naik, adv. for the Applicant.
Smt. R.M.Gadhvi, APP for the State.

CORAM: J.H.BHATIA, J.
DATE : 6th February, 2007.

P.C.:

1. Heard the learned counsel for the parties.

2. The present applicant seeks to be released on bail in Crime No.55 of 2006 registered with Kothrud Police Station under Sections 143, 147, 148, 302, 324 read with Section 149 of the I.P.C. and under Section 4 read with Section 25 of the Arms Act. It appears that he has filed number of bail applications before the Trial Court and they came to be rejected. He had also filed Criminal Application No.3148 of 2006 which was withdrawn on 29-8-2006. That application was filed after filing of the charge-sheet. It is clear that the applicant must have withdrawn it because the learned Judge was not inclined to grant bail.

3. Mr.Shirish Gupte, the learned Senior Counsel for the applicant contended that the accused in criminal case can make as many applications as possibly for bail and as earlier application was not actually decided on merits, he has made this application again. It appears that after withdrawal of that application, the applicant has also filed one more application before the Sessions Court which also came to be rejected.

4. Prosecution case in brief is that on 23-1-2006 at about 8.00 p.m., the deceased Balasaheb, his brother Nilesh, and some more persons were present at Gulabrao Tathe Vyayamshala. At about 9.00 p.m. they heard shouts from outside and therefore, Nilesh and Balasaheb both came out. As soon as they came out, the present applicant Nana Kudale, one Sunil Bansode, one Pappu Kude and 4 to 5 other persons rushed towards Balasaheb with sword and choppers, etc. The present applicants, Nana Kudale shouted that ’Dhara Re Yalach Toda’ which means that he be held and cut into pieces. Saying so, the present applicant assaulted said Balasaheb with weapon called Sattur while his companions Sunil and Pappu assaulted with sword and long knife. Other persons also assaulted him. In that incident, Balasaheb suffered in all 15 serious injuries due to which he died. From this it reveals that name of the present applicant was

disclosed as the main culprit in the F.I.R. itself which was lodged at 10.55 p.m., i.e. almost immediately after the incident.

5. Mr.Gupte tried to contend that recovery of weapons from the present applicant is of doubtful nature. Witnesses are relatives of the deceased and that there is no independent witness. All these aspects can be considered at the time of trial. Taking into consideration serious offence of murder and the role of the present applicant, I find that it is not a fit case to grant bail.

6. Application stands disposed off.

(J.H.Bhatia,J.)